

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

WIND RIVER MANAGEMENT CORP	§	
	§	
vs.	§	CIVIL ACTION NO. 3:17-cv-2674
	§	
	§	
FEDERAL INSURANCE COMPANY	§	
& WALTER HAESSIG	§	

PLAINTIFF’S MOTION TO REMAND

TO THE HONORABLE JUDGE, SAM. R. CUMMINGS:

Now Comes Plaintiff, Wind River Management Corp, who files this Opposed Motion for Remand and in support thereof, would show the Court as follows:

I. SUMMARY OF THE MOTION

1. The actionable conduct of Mr. Haessig was detailed in Plaintiff’s Original Petition. The allegations contained therein certainly meet the federal pleading standards, and more importantly provide a “factual fit between the allegations and the pleaded theory of recovery.”

2. Defendants carry the heavy burden of showing that joinder was improper, and in this instance that burden cannot be met. Texas law is clear that an adjuster like Mr. Haessig can be held liable for his actions (and certainly should be), and because the pleadings when accepted as true state a claim to relief that is plausible on its face, then joinder was proper. As a result, Mr. Haessig citizenship cannot be disregarded. Plaintiff respectfully requests that the Court remand this matter back to state court.

3. Filed concurrently herewith is Plaintiff’s Brief in Support of its Motion to Remand, along with Exhibit A & A-1. Plaintiff requests the Court take notice of the exhibits incorporated by reference from Defendant’s Notice of Removal.

CONCLUSION AND PRAYER

Pursuant to 28 U.S.C. § 1441(b) this case should be remanded back to the District State Court in Dallas County, where it was filed. In the alternative, should the Court have any doubts about the necessity of remand, Plaintiff respectfully requests that he be given an evidentiary hearing on the issue. Plaintiff additionally prays for all other relief to which it is justly entitled.

Respectfully submitted,

By: /s/ Brennan M. Kucera
BRENNAN M. KUCERA
brennan@krwlawyers.com
State Bar No. 24076491
KETTERMAN, ROWLAND & WESTLUND
16500 San Pedro, Ste. 302
San Antonio, Texas 78232
Telephone: 210-490-4357
Facsimile: 210-490-0996

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that I spoke with opposing about the possibility of agreement on a motion to remand and we were unable to agree. Therefore, the motion is opposed.

/s/ Brennan M. Kucera
Brennan M. Kucera

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of October, 2017, a true and correct copy of the foregoing has been forwarded to counsel of record in accordance with Federal Rules of Civil Procedure:

Jennifer G. Martin
Michael D. Rose
WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP
Bank of America Plaza
901 Main Street, Suite 4800
Dallas, Texas 75202
Telephone: (214) 698-8000
Facsimile: (214) 698-1101
jennifer.martin@wilsonelser.com
michael.rose@wilsonelser.com

/s/ Brennan M. Kucera

Brennan M. Kucera